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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/661,705 | 09/14/2000 | Thomas J. Nelson | 068368.0131 | 8997 |

25312 7590 10/20/2004

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EXAMINER

MAI, LANNA

ART UNIT PAPER NUMBER

3637

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|---|--|
| Office Action Summary | Application No. 09/661,705 | Applicant(s) NELSON, THOMAS J. <i>ST</i> | |
| | Examiner Lanna Mai | Art Unit 3637 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2, 9, 11-14, 16-18, 21, 26 and 29-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2, 9, 11-14, 16-18, 21, 26, 29-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/20/04 has been entered.

The terminal disclaimer filed on 7/20/04 has been entered and approved.

It is noted that claim 35 has an incorrect status identifier as "currently amended". Since it is a new claim, claim 35 should be annotated as "new". Correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2, 9, 12-14, 16-18, 21, 26, 29, 31, 33, 35 are rejected under 35

U.S.C. 102(b) as being anticipated by Kajiwara

Kajiwara: Fig. 2 shows a flooring panel (10) having a top surface (upper surface of element 12 adjacent to element 62), a bottom surface (the lower surface of 12 adjacent element 60) and a middle substrate (12). The middle substrate has identical grooves (40) formed along the edges, and identical-profiled edges extending between

top/bottom surfaces and extend about the entire periphery of the flooring panel.

Outwardly tapering channel (42) formed within the bottom surface, associated and extending parallel with each edge. The channel has a top portion (fig. 2) with outwardly tapering walls extending toward the bottom of the panel such that the channel becomes wider at the bottom of the panel than at the top portion of the panel. The channel includes a first wall (44 on the left of the channel), and a second wall (42) defines an obtuse angle, wherein the first and second walls extend in opposite directions.

Kajiwara's panel is square or rectangular in shape but it can be in any configuration (lines 32-36, col. 2). The panel is made of plywood (lines 41-44, col. 2), which encompasses the group of materials recited in claims 9 and 21.

Claims 2, 9, 12-14, 16-18, 21, 26, 29-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Hoffman et al.

Hoffman et al: Fig. 2 shows a flooring panel (2 or 3) having a top surface, a bottom surface and a middle substrate. The middle substrate has identical grooves (A) formed thereon and identical-profiled edges extending between top/bottom surfaces and extend about the entire periphery of the flooring panel (see figs. 2 and 10). Outwardly tapering channel (B) formed within the bottom surface, associated and extending parallel with each edge. The channel has a top portion with outwardly tapering walls extending toward the bottom of the panel such that the channel becomes wider at the bottom of the panel than at the top portion of the panel. The channel includes a first wall (on the left of the channel) defines an obtuse angle, and a second wall (on the right

of the channel) defines an obtuse angle, wherein the first and second walls extend in opposite directions. Hoffman's panel is square but it can be in any configuration (lines 26-30, col. 4). The panel is made of rubber (lines 2-3, col. 1), which is equivalent of unfilled plastics and therefore encompasses the group of materials recited in claims 9 and 21.

Claim Rejections - 35 USC § 103

Claims 2, 9, 11-14, 16-18, 21, 26, 29-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martensson in view of Howorth.

Martensson shows in fig. 2c adjacent flooring panels (1, 2) made of wood (lines 40-45, col. 6). Each panel has a top surface (3), a bottom surface (5) and a middle substrate (A). The middle substrate has identical grooves (4') formed along the edges and identical-profiled edges extending between top/bottom surfaces, and extend about the entire periphery of the flooring panel. See lines 20-22 of col. 7. Channel (4) formed within the bottom surface, associated and extending parallel with each edge.

Martensson does not show the channel having a top portion with outwardly tapering walls extending toward the bottom of the panel such that the channel becomes wider at the bottom of the panel than at the top portion of the panel. Martensson fails to show the channel includes a first wall defines an obtuse angle, and a second wall defines an obtuse angle, wherein the first and second walls extend in opposite directions. Howorth teaches providing a floor panel (24) with an outwardly tapering channel (35) formed within the bottom surface, associated and extending parallel with each edge. The

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channel has a top portion with outwardly tapering walls extending toward the bottom of the panel such that the channel becomes wider at the bottom of the panel than at the top portion of the panel. The channel includes a first wall (on the left of the channel) defines an obtuse angle, and a second wall (on the right of the channel) defines an obtuse angle, wherein the first and second walls extend in opposite directions. It would have been obvious to one skilled in the art to modify the channel (4) of Martensson with an outwardly tapering channel taught by Howorth for a more effective engaging means to secure the panel in place.

For claim 14, since the groove (4') of Martensson are in all four edges (2), it is clear that each groove does extend to and intersects with another groove of another side. For claims 16-18, note fig. 1. For claim 11, Martensson modified by Howorth, does not specify the thickness of the panel. However, the range of thickness specified in claim 11 is commercially well known. One of ordinary skill in the art would have make the panel of Martensson, modified by Howorth, in the thickness of the range between 0.24-0.32 inches to keep the cost down yet optimize the performance of the panel.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kajiwara. Kajiwara does not specify the thickness of the panel. However, the range of thickness specified in claim 11 is commercially well known. One of ordinary skill in the art would have make the panel of Kajiwara in the thickness of the range between 0.24-0.32 inches to keep the cost down yet optimize the performance of the panel.

Response to Arguments

Applicant's arguments filed 7/20/04 have been fully considered but they are not persuasive. Contrary to applicant's argument, Kajiwara does show identical edge profile which extends about the periphery of the flooring panel as shown in figs. 2-3. It appears that applicant is confused about what the flooring panel is and what the connector is in Kajiwara. The connectors are elements (14, 16), which may have different configurations – one with a recess and the other with a projection, but the flooring panel (10, 11) sure has identical edge profile. Furthermore, Kajiwara does show tapered channel (44, 42) which extends between the top portion and the bottom portion of the flooring panel.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lanna Mai whose telephone number is (703) 308-2486. The examiner can normally be reached on Monday-Friday from 9:00 AM to 5:30 PM. The fax phone number for the organization where this application or proceeding is assigned is (703)-872-9306. Any inquiry of a general nature relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-1113.

Lm

10-15-04

LANNA MAI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600



FIG. 1

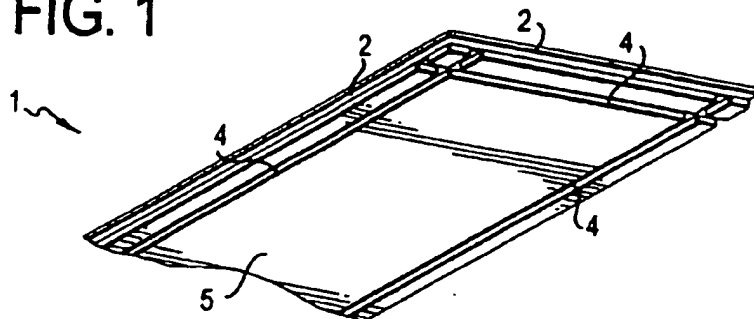


FIG. 2a

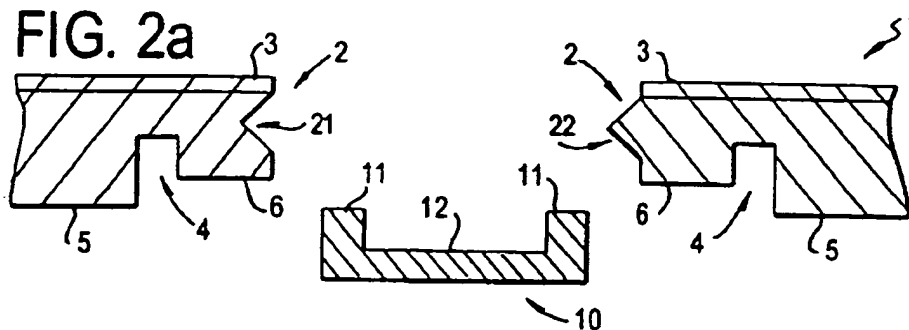


FIG. 2b

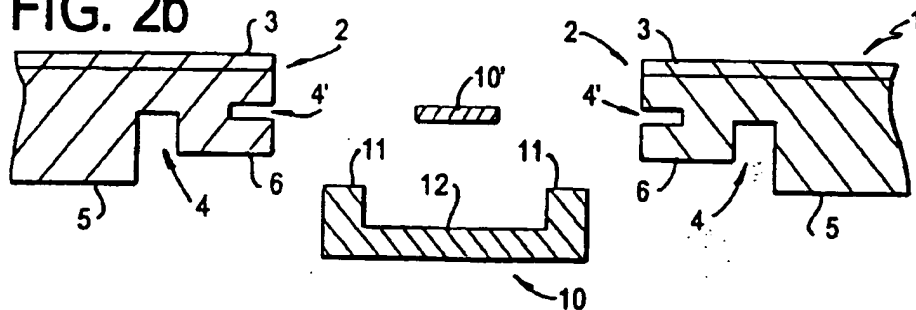
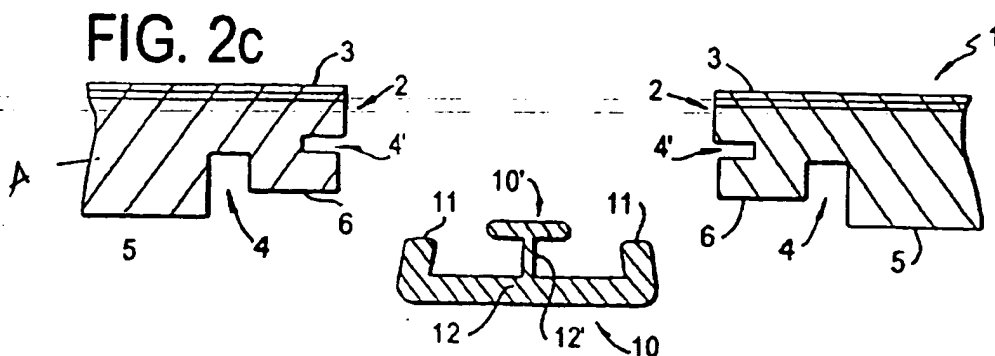


FIG. 2c

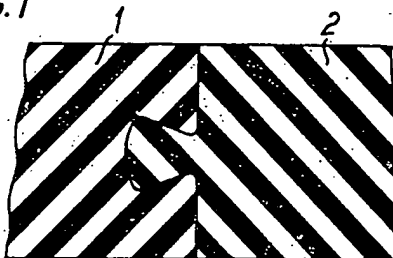


Patented May 8, 1973

3,731,445

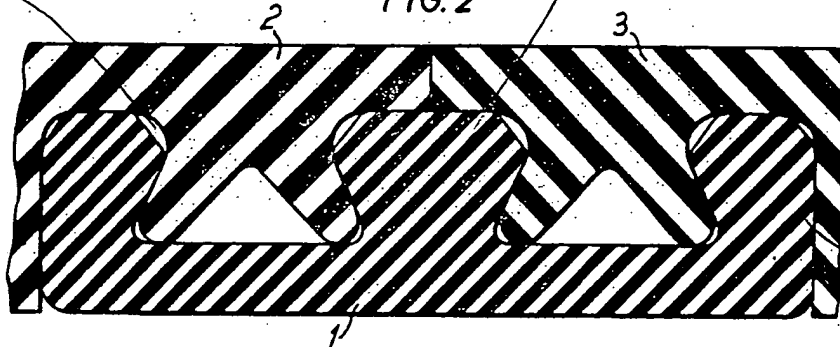
4 Sheets-Sheet 1

FIG. 1



channel B

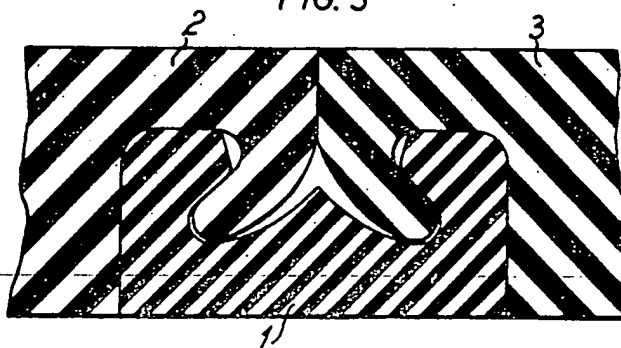
FIG. 2



groove A

channel B

FIG. 3



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